



UNITED STATES DEPARTMENT OF COMMERCE  
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FMH.6

Paper No. 8

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**JUN 16 1999**

**SPECIAL PROGRAMS OFFICE  
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In re Application of  
Bowie G. Keefer et al  
Application No. 08/637,176  
Filed: April 24, 1996  
Attorney Docket No. None

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed November 25, 1998, to revive the above-identified application.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a

statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

The statement of unintentional delay must be signed by all the applicants of record or be signed in accordance with 37 CFR 1.33(a). In this regard, 37 CFR 1.33(a) states:

Amendments and other papers filed in the application must be signed by:

- (1) An attorney or agent of record appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or
- (5) **All of the applicants (§§ 1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.**

Accordingly, the statement of unintentional delay by only one applicant is unacceptable at this time.

It is further noted in reviewing the application file that the reply received on July 7, 1998 to the Office action of May 12, 1998 likewise bears the signature of only one applicant. Accordingly, a substitute amendment must be submitted which bears the signature of the second inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks  
Box DAC  
Washington, D.C. 20231

Application No. 08/637,176

Page

By FAX: (703) 308-6916  
Attn: Office of Petitions

By Hand: Crystal Plaza 4, Suite 3C23  
2201 South Clark Place  
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

A handwritten signature in cursive script that reads "Frances Hicks".

Frances Hicks  
Lead Petitions Examiner  
Office of Petitions  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects